



Home and Community Based Services waiver for person with a Brain Injury Waiver Amendments

In January 2014, the Centers for Medicare & Medicaid Services (CMS) promulgated a final federal rule (CMS-2249-F and CMS 2296-F) to ensure that individuals receiving long term services and supports (LTSS) through Home and Community Based Services (HCBS) programs under 1915(c) and 1915(i) have full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal finances and receive services in the community to the same degree as individuals not receiving Medicaid HCBS.

Additionally, the new rule requires that, at the time HCBS Waiver amendments are submitted, the Department of Health Care Policy and Financing must develop and submit to CMS a transition plan identifying how the HCBS waiver will be brought into compliance with the new definition of the HCBS settings; provide 30 days public notice and comment period; and at least one additional opportunity for public comment.

Home and Community Based Settings

- The setting is integrated in and supports full access to the greater community;
- Is selected by the individual among setting options;
- Ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint;
- Optimizes autonomy and independence in making life choices; and
- Facilitates choice regarding services and who provides them.

For provider owned or controlled residential settings, the following additional requirements must be met:

- Individuals control their own schedules, including access to food at anytime
- The setting is physically accessible to the individual
- Individuals can have visitors at anytime
- Individuals have privacy in their living or sleeping units
- Units have lockable doors and entrances (with only appropriate staff having keys)
- Individuals who share rooms are allowed a choice of roommate
- Individuals have the freedom to furnish and decorate their living space
- At minimum, the individual has the same responsibilities and protections from eviction that tenants have under state or local landlord/tenant laws; or where such laws do not apply, a lease or written residency agreement must be in place for each resident to provide protections that address eviction processes and appeals comparable to the applicable landlord/tenant laws.

Summary of Waiver Amendments

ICD-10 Code Transition

- The Department's ICD-10 code-mapping team have accurately mapped the appropriate ICD-9 codes to ICD-10 codes. The current waiver lists out specific ICD-9 codes for SCI Waiver eligibility, however with the migration to ICD-10 that will be implemented October 2015, the

waiver needs to remove the specificity of the codes currently and instead ensure that appropriate future changes are done in rule.

Increase to the Home Modification Limit

- Legislation was passed during the 2014 session granting the Department more money to increase the overall lifetime maximum for the Home Modification benefit from \$10,000 to \$12,500. In addition to this amendment the Department is concurrently working on a rule change that will account for this increase in regulation.

Fiscal Management System (FMS) Change

- As of January 1, 2015 there will be a choice in FMS vendors and in delivery models for all Consumer Directed Attendant Support Services (CDASS) clients. Each vendor will offer Agency with Choice and Fiscal Employer Agent delivery models. Under Agency with Choice the client and agency are co-employers and the FMS conducts necessary payroll functions. Also, under Fiscal Employer Agent, the client is the employer of record and is responsible for paying attendants and managing employee costs.

Unduplicated Client Count Increase

- The Department intends to increase the overall unduplicated client count in projections of those served on the waiver due to a larger than expected growth in in people served. BI has experienced significant growth over the last year as more people become aware of the program and regulatory barriers to accessing the waiver have been removed.

Inclusion of Reserve Capacity

- BI requires the inclusion of the reserve capacity function within the waiver to ensure those who need access to it the most, typically in times of critical need, are able to receive services on the waiver. BI requires reserve capacity to ensure individuals who are leaving a post-acute hospital are able to access the Transitional Living Program without any delays that could put their health at significant risk.

Removal of OT/PT Inclusion in the Supportive Living Program

- In order to accurately reflect the intent of the program and what is covered as part of the per diem, the Department must remove the inclusion of OT/PT from the offered services. This was included as a mistake at the last renewal and not included as part of the current per diem.

In addition to amending the BI waiver, CMS also expects the Department to develop a Transition Plan when amending a waiver that provides assessment, strategies, and timelines for meeting the requirements of the new Federal rules. The Department has posted these Transition Plans to the HCPF website in order to seek comments from stakeholders, providers, clients, and other interested parties.



GUIDELINES ON SUBMITTING COMMENT

- The Department will have this draft of the Waiver Amendments and Waiver Specific Transition Plans open for public comment from August 20th to September 19th. The amendments and plans will be posted on the Department's website here: <https://www.colorado.gov/pacific/hcpf/hcbs-waiver-transition#WaiverAmendments>
- Individuals may request draft Waiver Amendments and Transition Plan materials via email at HCBS_Rules_Submission@state.co.us
- Comments regarding the draft Waiver Amendments and Waiver Specific Transition Plans can be emailed directly to HCBS_Rules_Submission@state.co.us
- Comments can also be addressed to the following:
ATTN: HCBS Transition
1570 Grant Street
Denver, CO 80203
- All comments will be maintained and responses provided in a regularly updated listening log kept on the Department's website found <https://www.colorado.gov/pacific/hcpf/hcbs-waiver-transition>

The Department commits to incorporating comments, concerns, and suggestions into the proposed transition plan when possible.

